

REMARKS

The above amendment and these remarks are responsive to the Office Action of Examiner Joshua A. Kading, dated 3 May 2005.

Claims 1-5 and 7-25 are pending in the case, with claims 1-5, 7-10, 12, 13, and 16-25 allowed. Claims 11, 14, and 15 have been rejected.

Claim Objections

Claims 11, 14, and 15 have been objected to for certain informalities; that is, the phrase "and of component". Applicants have amended the claims to correct the phrase to read --and of a component--, as suggested by the Examiner.

Allowable Subject Matter

Claims 1-5, 7-10, 16-24, and 25 have been allowed.

END920000102us1

17

S/N 09/746,183

35 U.S.C. 102

Claims 11, 14, and 15 have been rejected under 35 U.S.C. 102(b) over U.S. Patent 5,477,531, McKee et al. (McKee).

Applicants have amended claims 11, 14, and 15.

In the Office Action of 9/17/05, the Examiner allows claims which recite "discarding any burst in which all packets in said burst have not been received back and [are not] in the order said packets were transmitted."

Applicants have amended claims 11, 14, and 15 to recite this feature. The Examiner has determined that this feature is not taught by the art of record in the case.

Further, claims 11 and 15 are structured by these amendments to recite the calculation of the network's current speed responsive to determining the streaming speed. Support for this concept is found in applicants' specification:

"In accordance with this method, in order to use a

END920000102us1

18

S/N 09/746,183

burst test to determine the network's streaming speed, a plurality of packets is transmitted and the timestamping of their receipt by the receiver is used to calculate the network's current speed."

[Specification, page 25, line 23ff.]

McKee does not teach this aspect of applicants' invention, nor does the Examiner assert that it does.

Consequently, applicants urge that the amendments of claims 11, 14, and 15 be entered, and that these claims be allowed.

Applicants argue that such is appropriate, inasmuch as the present amendments, which merely insert material into claims 11, 14, and 15 which formed the basis for allowing other claims, do not raise new issues nor should they require further consideration.

SUMMARY AND CONCLUSION

Applicants urge that the above amendments be entered and the case passed to issue with claims 1-5, and 7-25.

END920000102us1

19

S/N 09/746,183

The Application is believed to be in condition for allowance and such action by the Examiner is urged. Should differences remain, however, which do not place one/more of the remaining claims in condition for allowance, the Examiner is requested to phone the undersigned at the number provided below for the purpose of providing constructive assistance and suggestions in accordance with M.P.E.P. Sections 707.02(j) and 707.03 in order that allowable claims can be presented, thereby placing the Application in condition for allowance without further proceedings being necessary.

Sincerely,

R. K. P. Klassen, et al.

By


 Shelley M. Beckstrand
 Reg. No. 24,886

Date: 23 Jun 2005

Shelley M Beckstrand, P.C.
 Patent Attorney
 61 Glenmont Road
 Woodlawn, VA 24381-1341

Phone: (276) 238-1972
 Fax: (276) 238-1545

END920000102us1

20

S/N 09/746,183